# Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

In the Matter of	)	
Bright House Networks, LLC	)	CSR No
For Determination of Effective Competition in: Chattahoochee, Florida (FL0167)	)	
To: Office of the Secretary Attn: Chief, Media Bureau		

### PETITION FOR SPECIAL RELIEF

Bright House Networks, LLC, ("Bright House Networks" or the "Company"), pursuant to Sections 76.7 and 76.907 of the Commission's rules, requests that the Commission find that it faces "effective competition" in the above-referenced franchise area (the "Franchise Area").

The Communications Act of 1934, as amended (the "Act"), and the Commission's rules provide that cable television rates may be regulated only in the absence of effective competition.<sup>2</sup> Cable operators are entitled to demonstrate that effective competition exists on a franchise-by-franchise basis.<sup>3</sup> When a cable operator demonstrates that effective competition is present within a franchise area, cable rates in the affected area are no longer subject to regulation.<sup>4</sup>

Under the "competing provider" test set forth in Section 623(1)(1)(B) of the Act and Section 76.905(b)(2) of the Commission's rules (the "Competing Provider Test"), a cable system will be deemed subject to effective competition if the franchise area is:

<sup>&</sup>lt;sup>1</sup> 47 C.F.R. §§ 76.7 and 76.907.

<sup>&</sup>lt;sup>2</sup> 47 U.S.C. § 543(a)(2); 47 C.F.R. § 76.905(a).

<sup>&</sup>lt;sup>3</sup> 47 C.F.R. § 76.907.

<sup>&</sup>lt;sup>4</sup> See Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992, Rate Regulation, 8 FCC Rcd. 5631, 5664-5665 (1993) ("Rate Order").

- (i) served by at least two unaffiliated multichannel video programming distributors, each of which offers comparable programming to at least 50 percent of the households in the franchise area; and
- (ii) the number of households subscribing to multichannel video programming other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area.<sup>5</sup>

As demonstrated below, the Competing Provider Test is satisfied in the Franchise Area. Two unaffiliated MVPDs serve over 50 percent of the Franchise Area's households with comparable programming and the aggregate penetration rate for all "competing providers" exceeds 15 percent in the Franchise Area. Accordingly, Bright House Networks requests that the Commission issue an order finding that Bright House Networks is subject to effective competition under the Competing Provider Test in the Chattahooche Franchise Area.

# I. BRIGHT HOUSE NETWORKS SATISFIES THE COMPETING PROVIDER TEST IN THE FRANCHISE AREA.

The two prongs of the Competing Provider Test are straightforward and objective. Both prongs of this test are satisfied in the Franchise Area.

A. More Than Two Unaffiliated MVPDs Offer Programming Comparable to Bright House Networks to Over 50 Percent of the Households in the Franchise Area.

The first prong of the Competing Provider Test requires that a franchise area must be served by "at least two unaffiliated multichannel video programming distributors..." This requirement is easily satisfied, because the two major direct broadcast satellite providers (DirecTV, Inc. and Dish Network, Corp.) ("DBS Providers") are unaffiliated with Bright House

<sup>&</sup>lt;sup>5</sup> 47. U.S.C. § 543(1)(1)(B)(i) and (ii); 47 C.F.R. § 76.905(b)(2)(i) and (ii).

<sup>&</sup>lt;sup>6</sup> 47 U.S.C. § 543(1)(1)(B)(i); 47 C.F.R. § 76.905(b)(2)(i). Section 602 of the Communications Act of 1934, as amended, defines "multichannel video programming distributors" to include cable operators, as well as DBS and MMDS providers. *See* 47 U.S.C. § 522(13).

Networks' Area.

Service of an MVPD will be deemed "offered" when it is both technically and actually available. The Commission has determined that DBS service is presumed to be "technically available" throughout the country due to its nationwide satellite footprint. Bright House Networks' Franchise Area is well within the satellite footprint of DirecTV and Dish Network. Thus, both DirecTV and Dish Network are "technically available" in the Franchise Area.

DBS service is presumed to be "actually available" if households in a franchise area are made "reasonably aware" that the service is available. The Commission has stated that "a party may use evidence of penetration rates in the franchise area (the second prong of the competing provider test ...) coupled with the ubiquity of DBS services to show that consumers are reasonably aware of the availability of DBS service." The same reasoning applies here.

<sup>&</sup>lt;sup>7</sup> Rate Order ¶ 29.

<sup>&</sup>lt;sup>8</sup> See MediaOne of Georgia, Inc; Petition for Revocation of the Certification of Gwinnett County, Georgia, 12 FCC Rcd. 19406, ¶ 5 n.16 (1997) (citing Rate Order, at 5660-5661).

<sup>&</sup>lt;sup>9</sup> See Rate Order ¶ 32 (citations omitted). See also Charter Communications – Fourteen North Carolina Communities, 19 FCC Red. 7003, ¶ 4 (2004).

<sup>10</sup> Comcast Cable Communications, LLC Petition for Determination of Effective Competition in Various Michigan Communities, 23 FCC Rcd. 9595, ¶ 5 (2008), citing Mediacom Illinois LLC et al., Eleven Petitions for Determination of Effective Competition in Twenty-Two Local Franchise Areas in Illinois and Michigan, 21 FCC Rcd. 1175 (2006) ("Comcast – Various Michigan Communities"). Thus, the Commission has not required the production of advertising to demonstrate that households in the franchise area are "reasonably aware" of the availability of DBS service. See Bright House Networks, LLC Petition for Determination of Effective Competition (Lake Alfred and Dundee FL), 22 FCC Rcd. 4390, ¶ 6 (2007) ("Over more than ten years, we have made hundreds of findings that households in particular franchise areas are reasonably aware that they may purchase DBS services based on localized evidence. These accumulated showings amount to substantial evidence that households in all franchise areas are reasonably aware that they may purchase DBS services. In at least one earlier reported decision, we found households in a franchise area to be reasonably aware that they may purchase DBS

DirecTV and Dish Network are among the largest MVPDs in the nation.<sup>11</sup> With approximately 34 million subscribers nationwide,<sup>12</sup> (comprising approximately 34 percent of all MVPD subscribers),<sup>13</sup> extensive advertising, and the substantial DBS penetration figures in the Franchise Area, it is clear that consumers in the Franchise Area are "reasonably" aware of the availability of DBS competitors.<sup>14</sup>

The Competing Provider Test also requires that the programming offered by the competing provider must be "comparable" to the programming offered by the cable operator. 

The Commission's rules define comparable programming as "at least 12 channels of video programming, including at least one channel of nonbroadcast service programming." 

The Commission has repeatedly recognized that the DBS Providers offer comparable programming

service solely based on evidence of DBS's nationwide growth and local subscriptions, without reference to advertising or other promotion.") ("Bright House Networks -Florida").

<sup>&</sup>lt;sup>11</sup> See Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming (Fourteenth Order), 27 FCC Rcd. 8610,  $\P$  31 (2012)(" $14^{th}$  Report").

<sup>&</sup>lt;sup>12</sup> See Press Release, DirecTV, DirecTV Announces Fourth Quarter and Full Year 2012 Results (Feb. 14, 2013) (reporting that, as of December 31, 2012, DirecTV (US) had 20.084 million subscribers), available at <a href="http://investor.directv.com/releasedetail.cfm?ReleaseID=740312">http://investor.directv.com/releasedetail.cfm?ReleaseID=740312</a>; Press Release, DISH Network, DISH Reports Year End 2012 Financial Results (Feb. 20, 2013) (reporting that, as of December 31, 2012, Dish Network had approximately 14.056 million subscribers), available at

http://dish.client.shareholder.com/releasedetail.cfm?ReleaseID=741643.

<sup>&</sup>lt;sup>13</sup> See 14<sup>th</sup> Report ¶ 31. See also Georg Szalai, U.S. Pay-TV Industry Sub Growth Hits Low in 2012, The Hollywood Reporter, Mar. 11, 2013 (citing SNL Kagan report of 100.4 million video subscribers by the end of 2012), available at <a href="http://www.hollywoodreporter.com/news/us-pay-tv-industry-growth-427390">http://www.hollywoodreporter.com/news/us-pay-tv-industry-growth-427390</a>.

<sup>&</sup>lt;sup>14</sup> See, e.g., Comcast –Various Michigan Communities, ¶ 5; Bright House Networks–Florida, ¶ 6.

<sup>&</sup>lt;sup>15</sup> See 47 U.S.C. § 543(1)(1)(B)(i); 47 C.F.R. § 76.905(b)(2)(i).

<sup>&</sup>lt;sup>16</sup> 47 C.F.R. § 76.905(g).

under the Commission's Competing Provider Test.<sup>17</sup> Each of the DBS Providers offer well over 100 video channels, most of which are non-broadcast services.<sup>18</sup> And, as shown in the attached channel line-up, Bright House Networks' programming service offerings in the Franchise Area are substantially similar to the DBS Providers' programming services.<sup>19</sup>

Based on the above facts, Bright House Networks has satisfied the first prong of the Competing Provider Test.

# B. The Competing Providers Serve Greater Than 15 Percent of the Households In Bright House Networks' Franchise Area.

The second prong of the Competing Provider Test requires that the subscriber base of competing MVPDs, other than the largest MVPD, exceeds 15 percent of franchise area households.

Because DBS Providers track their subscribers according to the ZIP codes where each subscriber resides (rather than by political jurisdiction), Bright House Networks relied on a two-step process to determine the number of DBS subscribers within the Franchise Area. To determine the relevant ZIP+4 codes for the Franchise Area, Bright House Networks first contacted SNL Kagan ("SNL," formerly known as "Media Business Corp."). SNL has developed a process to accurately identify the ZIP+4 codes that correspond with the political boundaries of a particular community. This process utilizes enhanced mapping software that correlates ZIP+4 codes with political boundaries. With this software, SNL was able to identify

<sup>&</sup>lt;sup>17</sup> See, e.g., Comcast Cablevision of Maryland, Inc., Petitions for Effective Competition, 19 FCC Rcd. 7130, ¶ 4 (2004) ("We find that the programming of DBS providers satisfies the Commission's program comparability criterion because DBS providers offer more than 12 channels of video programming, including more than one non-broadcast channel.").

<sup>&</sup>lt;sup>18</sup> See Channel Line-ups of DirecTV and Dish Network, attached hereto as Exhibit 1.

<sup>&</sup>lt;sup>19</sup> See Bright House Channel Line-up, attached hereto as Exhibit 2.

the ZIP+4 codes that lie within the Franchise Area.<sup>20</sup> The Commission has previously accepted ZIP+4 codes as "reasonable and sufficiently reliable for purposes of determining the presence of effective competition,"<sup>21</sup> and stated its preference for this approach.<sup>22</sup>

Bright House Networks next provided the relevant ZIP+4 codes for the Franchise Area to the Satellite Broadcasting and Communication Association ("SBCA"). SBCA is the national trade association representing the two DBS Providers, as well as other satellite service providers, and it has assumed the responsibility for compiling subscribership data and responding to data requests from cable operators and franchising authorities engaged in effective competition proceedings. The DBS subscriber number reported in the attached Effective Competition Tracking Report ("ECTR") from SBCA reflects the total number of DBS subscribers within the individual ZIP+4 codes associated with the Franchise Area.<sup>23</sup>

To determine whether DBS subscribership exceeds the statutorily mandated 15 percent threshold in the Franchise Area, Bright House Networks compared the competing providers' subscribership to the most recent U.S. Census occupied household unit figures for the

<sup>&</sup>lt;sup>20</sup> See Letter from SNL (explaining ZIP+4 methodology), attached hereto as Exhibit 3.

<sup>&</sup>lt;sup>21</sup> Cable One, Inc. Petition for Determination of Effective Competition in Pocatello, Idaho, 18 FCC Rcd. 12792, ¶ 8 (2003) (quoting Falcon Cable Systems II, a California Limited Partnership, d/b/a Charter Communications Petition for Determination of Effective Competition in Twelve Oregon Cities, 17 FCC Rcd. 4648 (2002)).

<sup>&</sup>lt;sup>22</sup> See Public Notice, "Commission Announces New Standards for Showings of Effective Competition For Cable Service," 23 FCC Rcd. 12067 (2008); Public Notice, "Commission Clarifies Standards for Evidence of Competing Provider Effective Competition for Cable Service," 24 FCC Rcd. 8198 (2009).

<sup>&</sup>lt;sup>23</sup> See Exhibit 4 (providing total ZIP+4-based DBS subscribership for the Franchise Area, as well as all ZIP+4 data relied on in the Petition).

community.<sup>24</sup> This comparison yields a penetration rate of 30.11 percent for DBS Providers in the Chattahoochee Franchise Area.

As detailed in Exhibit 6, the subscriber penetration rate for the competing DBS Providers in the Franchise Area exceeds the 15 percent threshold required under Section 623(1)(1)(B) of the Act. Accordingly, Bright House Networks meets the second prong of the Competing Provider Test in the Franchise Area.<sup>25</sup>

### CONCLUSION

Bright House Networks' cable system is subject to effective competition in the Franchise Area under the Competing Provider Test. Based on the evidence presented herein, Bright House Networks respectfully requests that the Media Bureau issue an order acknowledging the presence of effective competition in the Chattahoochee, Florida Franchise Area as of the filing date of this Petition.

Respectfully submitted,

Bright House Networks, LLC

By:

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August 27, 2013

Its Attorney

<sup>&</sup>lt;sup>24</sup> See Exhibit 5.

<sup>&</sup>lt;sup>25</sup> Bright House Networks has confirmed that it is the largest MVPD in the Chattahoochee Franchise Area. *See* Declaration of Thomas M. Wilson, attached hereto as Exhibit 7.

## CERTIFICATION PURSUANT TO 47 C.F.R. § 76.6(a)(4)

The below-signed signatory has read the foregoing Petition for Special Relief, and to the best of my knowledge, information and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and is not interposed for any improper purpose.

Respectfully submitted,

**Bright House Networks, LLC** 

By:

Frederick W. Giroux

Davis Wright Tremaine LLP

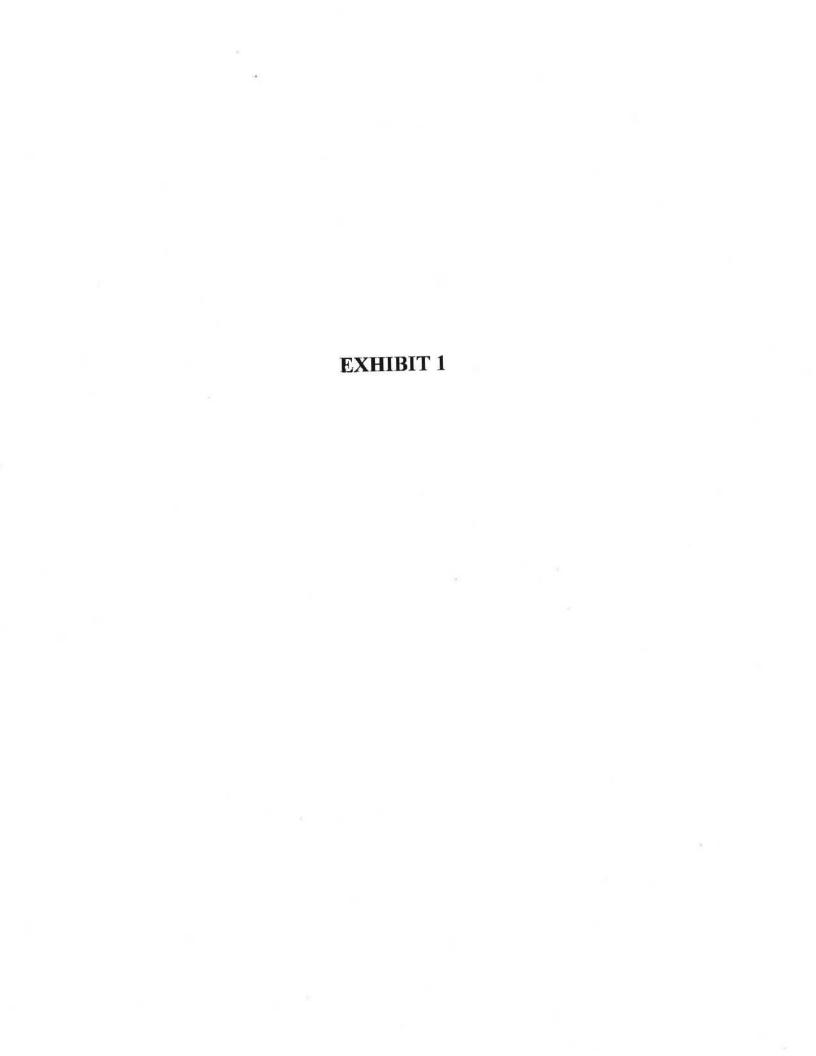
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American Movie Classics (AMC)	CHO 754	C-SPAN2	351	(SPNU	CIO 788	Investigation Discovery	285	Nicktoons Network	302	Throlly Broadcasting Network (TBN)	372
Animal Planet	CID 787	Current TV	358	EWIN	370	ION (East)	CID 305	NRB Network	378	Turner Classic Movies (TCM)	CID 756
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880 America	GIE 784	DIRECTY Sports Mix	205/600	FOX News Channel	CID 360	Lifetime .	GIO 252	Daygen	251	TVG Interactive Horseracing	682
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CBS Sports Network	CID 613	Encore Action	541	Great American Country (CAC)	328	MINS	333	Sportsman Channel	655	The Weather Channel	LID 367
Centric	339	Encore Drama	540	GSN, The Network for Games		TWP	410	Sprout		Will Are co	EED 397
Chiller	257	Encore East	CTED 535		COD 771	(30) (check listing)	CID 103	Style	235	The Word Network	373
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Fre Church Channel (TCC)	371	Encore Love	537	Readine News (HLN)	CID 7%	Nat Ces WILD	EED 783	Sylv	GED 244	SonicTap Music Channels* - 80	
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Cornedy Central	CID 249			Hope Channel <sup>®</sup>	368	NHL Network	CID 215	The Learning Channel (TLC)	HID 280		
Cooking Channel	CED 232		CED 209			Nick Ir.		INT	CTO 245		

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BabyFirst TV	293	Current TV	358	FS Detroit	GTO 863	ION (West)		Pursuit Crannel		INI	CHD 745
88C America CC	264		369	FS Florida	CII 554	Jewelry Television	70/313	9/0	775/317	Travel Channel	00077
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Boomerang	798	Disney Channel (East)	CHE 290	FS Southwest	GE 676	Mid-Atlantic Sports Network (MASN)	CIO 640	Science	CII 284	TV One	328
		Disney Channel (West)		FS West	697	Military Channel	207	ShopNBC	316	TVG Interactive Horseracing	802
BYU TV	374	Disney Jr.	289	FUEL TY	CEE 618	MLB Network	TE 213	SHOWTIME (East/West)	TED 545/546	TWC Deportes	GED 458
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		Encore Love		GSN, The Network for Games		TQ12 <sup>1</sup>		Spike TV		WE: Women's Entertainment	260
		Encore Suspense	537					Sportsman Channel		The Weather Channel	GID 362
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člao				HBO Signatura		New England Sports Network (NESN)			CID 531		
	ID 355				<b>CELCO</b> 507/505			STARZ Comedy (HD only) <sup>‡</sup>	CID 576		
CRBC World				HBO Zone (HD only)*				STARZ Edge	CID 529		
	101 701			Head to News (HLR)	CID 284			STARZ In Black	CID 530		
	10 69 EE			History Channel				STARZ Kids & Family (HD only)			
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Comcast SportsNet Chicago (2)	10 665	Food Network	CLD 731	Home & Garden Television (HGTV	EDM	Niektoons Network	302	SUN Sports	CHE2 653		

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XTRA PACKAGE	ove		OX Í NBC	I PBS I CW & MyTV (a		9% of U.S. households e in select markets), l				REGULAR \$	
										Regional Sports I	ее гвау аррг
ASE	268	Country Music Television (CMT)	CED 327	FOX Business Network	CHO 359	Investigation Discovery	265	Hicktoons Network	397	pgTY	246
ABC Family	TE 311	E-SPAN	350	FOX Movie Channel		(ON (East)	ED 35	NR3 Network	378	Turner Classic Movies (TCM)	256
American Movie Classics (AMC)	CEE 254	C-SPAH2	351	FOX News Channel	CID 340	I ION (West)	396	GNEE Mecco	447	TV Gode Channel	773
Asimal Planet	GIE 282	Current TV	358	FOX Soccer Channel	CID 679	Lewitry Talevision	70/313	Ovation	274	TV Land	384
	139/101	Daystar	369	FUEL TY	III 618	Lewish Life TV	366	Ograh Wintrey Network	279	TV One	328
AXS TV HD only?	CID 340	Destination America	286	Fase	339	Lifetime	CE 257	Oxygen	251	TV6 Interactive Horseracing	692
BabyFirst TVP	293	DIRECTY Customer Information	- 1	FX	CHO 24	Lifetime Movie Network	253	Pursuit Chantel	504	TWC Deportes	GID 458
880 America	CIE 264	DIRECTV Sports Mix	205/600	Calavisión	USA	Link IV	375	OVC	275/317	TWC SportsNet	CHO 691
Big Ten Hetwork		Discovery Channel	CEIE 278	Gem Shopping Network	228	Logo	272	Resignation .	738	Univision East	CHO 0)2
Biography Channel	CID 766	Discovery Fit & Health	261	600 TV	365	Military Channel	787	RFO-TV	345	USA Network	CHE 242
Black Entertainment Television (BE	T CID 379	Disney Channel (East)	CID 290	Golf Channel	CHE 218	MEB Network	EEE 213	Science	EEE 784	V me	440
Bloomberg TV	353	Disney Chamel (West)	291	Gospel Music Channel	338	MSNBC	CHO 356	ShopNBE	316	Vetocity* (HD only)	281
Brave	CID 237	Disney Jr.	CID 289	Great American Country (GAC)	326	MIA	HD 331			VIII	335
Srt IV	374	Distay XD		GSN, The Network for Games	233	SVTM	333	SPEED	CID 697	VH1 Classic	337
Cartoon Network (East)	CID 76	DIY Network	CIO 730	H2	CID 27	mun2º	410	Spike TV	CID 74	WE: Women's Entertainment	868
Cartoon Network (West)	297	The Occumentary Channel	267	Hallmark Channel	III 317	n30 (cherik listing)	ED 103	Sportsman Channel	885	The Weather Channel	CH 387
CBS Sports Network		El Entertainment Television	CIID 236	Head to News (HLN)	GID 784	NASA IV	346	Syfy	ETF9744	WGN America	GE 307
Centric	330	Enace	448	Ristory Channel	CID 289	Nat Geo WILD	CID 283		CTO 247	The Word Network	373
Christian Television Network (CTM)	376	ESPH	206	BITH TV	449	National Geographic Channel	276	Tennis Channel	110 217	World Harvest TV (VHT)	357
The Church Channel (TCC)	371	ESPH ?	CHO 267	Home & Carden Television (NCTV)	CIE 229	NBA TV	CIO 216	TCT Network	377	SonicTap Music Channels' - 77	
CNBC	TE 355	ESPN 301	GEO 106	Rome Shooping Network (BSN)	240	NBC Sports Network	CHO 228	Teen Mick	303		
CNBC World	357	ESPHEWS	CIO 207	Hope Channel	368	NFL Network	TTD 212	The Learning Channel (TLC)	EED 780		
CHN	202	ESPNU	CID 208			West It	301	INT	MD 245		
Corredy Central	TE 249			Independent Film Chaptet (IFC)		Nicketodech/Nick at Nita (East)		Travel Channel	GE 277		
Cooking Channel		Food Network		Inspiration Network		Nickelodent/Nick at Nite (West)		Trinity Broadcasting Network [TBN:		1	

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### Local channels available in: Tallahassee FL (Lookup another)

Network	Affiliate	<b>Local Channel</b>	IRD Channel	Broadcast Format
ABC	WIXL	27		HD
ABC	WTXL	27		Digital
CBS	WCTV	6		Digital
CBS	WCTV	6		HD
CW	WILF	24	Mac Short	Digital
FOX	WTLH	49		HD
FOX	WILH	49		Digital
NBC	wtwc	40		Digital
NBC	WTWC	40		HD
PBS	WFSU	11		HD
PBS	WFSU	11	N COLONE	Digital

## THERE'S SOMETHING FOR EVERYONE

	merica's Top	120	
ALE	ALE	(2107	118
ABCFM	ABC Family	175	180
ALIVE	America Live		219
ANGEL	Angel One		252
ANGL2	Angel Two		266
AXS		Domr	131
BUYE	Business Television Buyl	27	9602
TOON	Cartoon Network (E)	व्यव	176
TOONW	Cartoon Hetwork (W)	34.3	177
CCTVE	CCTV-E		884
CONEWS	CCTV-News		265
CHRCH	Church Channel	100-0	258
CNET	CMT	18101	186
CHIN	CNBG	EO.	208
CMDY	Comedy Central		107
CSPN2	C-SPAN2	1,021	211
DYSTR	Daystar		263
DISC	Discovery Channel	[20]	182
DISE	Disney Channel (E)		172
DISW	Disney Channel (W)		173
DOC	Documentary Channel		197
EF	El Entertainment Television	EIO	114
ESPN2	ESPN	GIO.	140
ESNWS	ESPN2 ESPNEWS	1210	144
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# dish

# CHANNELS AND PACKAGES

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Encore (W) sur Encore Action Encore Drama Encore Family

ENCRW

EACTN EDRAM ENFAM ELOVE

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#### Mini-Packs

ø	100,000 movies, shows and thousands of titles streamed an HD DVR connected to be 25,000 titles available on dishonline.com.	to you	ETV W	121
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# **EXHIBIT 2**



Basic

			*			
Channel	Station Name					
2	HSN					
3	WTXL ABC					
4	TBS					
5	Local					
6	WCTV CBS					
7	WJHG NBC					
8	C-SPAN					
9	QVC					
10	WTLH FOX			4		
11	WFSU PBS					
12	WTWC NBC					
13	WMBB ABC					
14	WGN					
15	TBN					
16	WTLH CW					
18	ShopNBC					
			Standard			
Channel	Station Name					
19	BET					
20	Oxygen					
21	Bravo					
22	Hallmark Channel					
23	Discovery					
24	ESPN					
25	ESPN2					
26	Sun Sports					
27	TLC				9	
28	USA					
29	Lifetime					
30	WE					
31	TNT					
32	FX					
33	Spike					
34	A&E					
35	Comedy Central					
36	History					
37	Animal Planet					
38	HGTV					
39	Food Network					
40	Travel Channel					
<del>4</del> 0 <b>4</b> 1	Nat Geo					
42	HLN					
42 43	CNN					
43 44	MSNBC					
44 45	CNBC	Y	r.			
46	NBC Sports Network					



47	The Weather Channel	 	VIEW - VIEW - VIEW
48	FOX Sports Florida		
49	ABC Family		
50	Fox News		
51	Cartoon Network		
52	Nickelodeon		
53	SyFy		
54	Disney Channel		
55	MTV		
56	VH-1		
57	CMT		
58	E!		
59	AMC		
60	LMN		
61	truTV		
62	TV Land		
457	SPEED (Converter Required)		

Di	αi	tal

001	1011
308	GSN
326	OWN
328	Destination America
329	The Hub
330	Military Channel
331	Investigation Discovery
332	Science
340	bio
341	H2
342	BBC America
343	Cloo
352	Centric
404	Disney XD
408	NickToons
409	TeenNick
410	Nick Jr.
414	G4
420	Bloomberg
430	RFD TV
441	ESPNews
442	ESPN Classic
445	Golf Channel (Converter Required)
453	Fox Soccer
456	Outdoor Channel
458	Discovery Fit and Health
466	MTV2
467	MTV Hits
471	VH-1 Classic
474	Fuse

Channel

307

Station Name

TCM



477 GAC490 FX Movie Channel

492 Sundance Channel

### Movie Pass

		Movie Pass
Channel	Station Name	
491	IFC	
610	Encore East	
611	Encore West	
612	Encore Action East	
613	<b>Encore Action West</b>	
614	Encore Love East	
616	<b>Encore Suspense East</b>	
618	Encore Drama East	
619	Encore Drama West	
620	Encore Westerns East	
622	<b>Encore Family East</b>	
		Premium Channels
Channel	Station Name	

600	Cinemax East
601	Cinemax West
602	MoreMAX East
603	MoreMAX West
604	ActionMAX East
605	ThrillerMAX East
630	HBO East
631	HBO West
632	HBO Family East
633	HBO Family West
634	HBO 2 East
636	HBO Signature East
638	HBO Comedy East
639	HBO Zone East
650	Showtime East
652	Showtime 2 East
654	Showtime Showcase East
656	Showtime Extreme East
658	Showtime Next East
659	Showtime Family Zone East
660	Showtime Women East
670	Starz East
671	Starz West
672	Starz Edge East
674	Starz in Black East
675	Starz Cinema East
676	Starz Kids & Family East
677	Starz Comedy East
680	TMC East
682	TMC Xtra East



Pay	/ Per	View
Гач	/ F CI	A 10 AA

Channel	Station Name		
801	iN Demand 1		
802	iN Demand 2		
803	iN Demand 3		
804	iN Demand 4		
851	Hot Choice		
		Digital Music Channels	
Channel	Station Name	Digital Music Chamiles	
900	DMX: Beautiful Instrumentals		
901	DMX: Jazz Vocal Blends		
902	DMX: Hot Hits		
903	DMX: Modern Country		
904	DMX: Alternative		
905	DMX: Silky Soul		
906	DMX: Rap		
907	DMX: Jazz		
908	DMX: Blues		
909	DMX: Gospel Glory		
911	DMX: Subterranean		
912	DMX: Symphonic		
913	DMX: Coffeehouse Rock		
914	DMX: Dance		
915	DMX: The Spirit		
916	DMX: 8-Tracks		
917	DMX: Spike		
918	DMX: 80's Hits		
919	DMX: 70's Hits		
920	DMX: Classic R&B		
921	DMX: Traditional Country		
922	DMX: Soft Hits		
923	DMX: Retro Disco		
924	DMX: Groove Lounge		
925	DMX: Big Band/Swing		
926	DMX: Smooth Jazz		
927	DMX: New Age		
928	DMX: Holiday & Happenings		
929	DMX: Great Standards		
930	DMX: Malt Shop Oldies		
931	DMX: Reggae		
932	DMX: The Playground		
933	DMX: Adult Contemporary		
935	DMX: Lite Classical		
937	DMX: 60s Revolution		
939	MC: Retro Rock		
941	DMX: Urban Beat		

# **EXHIBIT 3**



August 14, 2012 Davis Wright Tremaine LLP 1919 Pennsylvania Avenue, N.W. Suite 800 Washington, DC 20006

To Whom It May Concern:

SNL Kagan utilizes a multi-step process to accurately identify cable client franchise areas and associated ZIP and ZIP+4 Codes. (A ZIP+4 Code includes the five digits of the United States Postal Service ZIP Code, a hyphen, and four more digits that determine a more precise location than the ZIP Code.)

This methodology was developed to address the potential shortcomings in utilizing 5-digit ZIP Code data for "Effective Competition" petitions. The basic methodology has been in place for several years and has been used successfully in many Effective Competition cases at the FCC.

Because ZIP Codes and municipal boundaries are created and managed by different government authorities, the boundaries of ZIP Codes and municipal boundaries often overlap. ZIP Codes frequently span between and beyond municipal boundaries. ZIP+4 Codes, however, usually reside in one and only one municipality. SNL Kagan uses Place, Minor Civil Division (MCD), and County boundaries from Dynamap® a division of Pitney Bowes Business Insight, to determine municipal boundaries. SNLKagan uses the Dynamap® ZIP+4 Centroids database, which contains ZIP+4 centroid correspondence for virtually all deliverable ZIP+4s, to identify ZIP+4 Codes within municipal boundaries, among the over 60 million ZIP+4s in all 50 states, DC, and Puerto Rico, based on current data from the USPS and the U.S. Bureau of the Census, and the Tele Atlas master street database.

SNL Kagan then utilizes its ZIP+4 Code mapping to enable our clients to obtain proper "Direct-to-Home" (DTH) subscriber counts for their respective franchise areas by tracking DTH subscribers at the ZIP+4 Code level. (Where SNL Kagan determines that a ZIP Code falls entirely within a franchise area, however, it is unnecessary to identify DTH subscribers at the ZIP+4 Code level for that 5-digit ZIP Code. In these instances, SNL Kagan identifies such 5-digit ZIP Codes and, accordingly, DTH subscribers are identified by the 5-digit ZIP code only.)

Only ZIP+4 Codes that meet specific criteria are included in this report. The following criteria must be met:

- The centroid of the ZIP+4 Code is within the franchise area; and
- The USPS ZIP+4 Record Type (from Dynamap® ZIP+4 Centroids) is either H- high rise or S street.

Our methodology has been used by many multiple system operators (MSOs) as part of their Effective Competition relief efforts, and we believe this methodology produces the most accurate and detailed view of ZIP+4 data as it relates to cable franchise areas.

Pinna Gallant

Senior Product Manager

SNL Kagan

# **EXHIBIT 4**

### **ECTR - Effective Competition Tracking Report**



# Provided by Satellite Broadcasting and Communications Association

Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated June 7, 2013 please find the following Direct-to-Home (DTH) satellite subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: June 10, 2013

**ZIP Codes** 

**DTH Count** 

Requested total for Chattahoochee, FL	283
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Data is current through 4/30/2013

Report Prepared by: Martin Esteves Program Manager 202-349-3630 mesteves@sbca.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

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323241543	1
323241544	1
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323241551	0
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323241556	1
323241557	0
323241558	0
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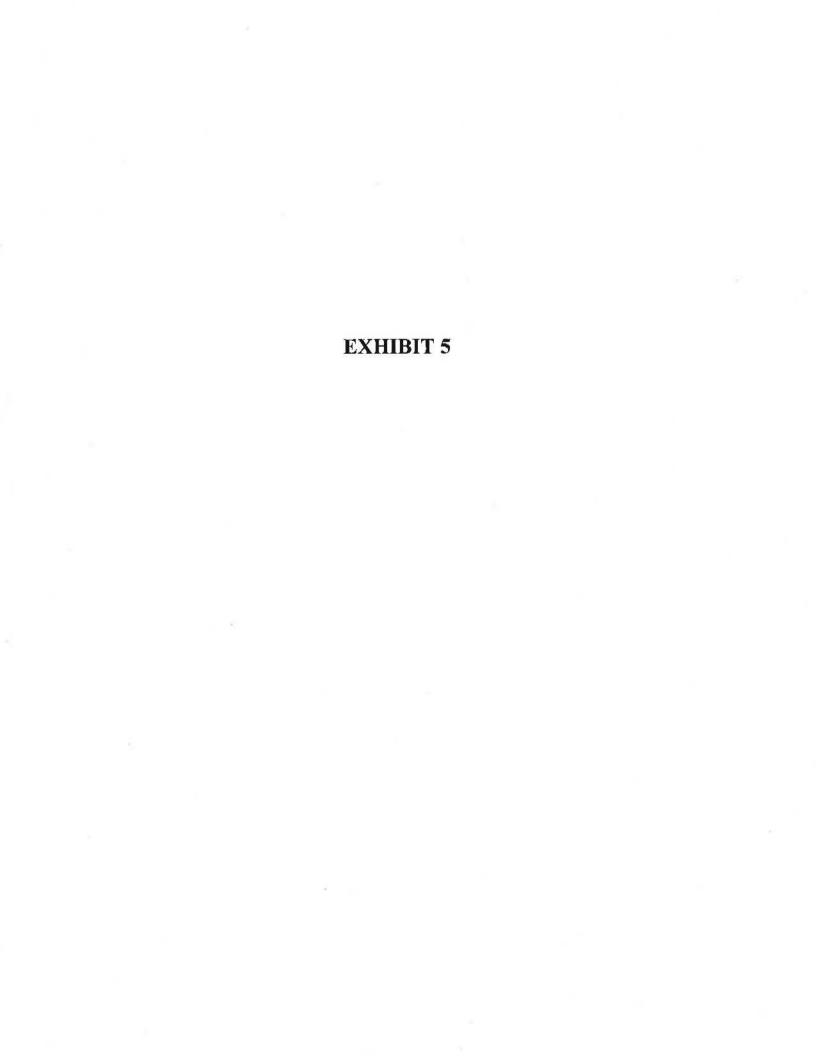
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323241712	0
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Total	283		



1 Advanced Search 2 Table Viewer

Result 1 of 1

VIEW ALL AS PDF

H1

OCCUPANCY STATUS Universe: Housing units 2010 Census Redistricting Data (Public Law 94-171) Summary File

BACK TO ADVANCED SEARCH

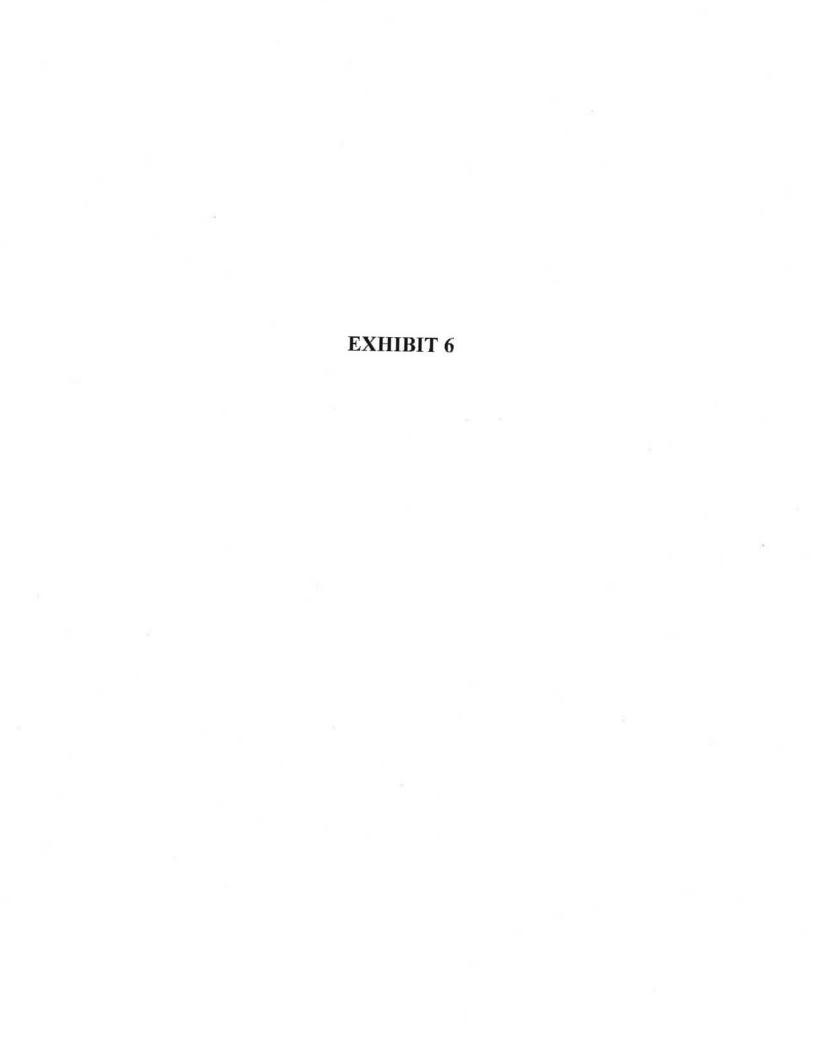
NOTE: For information on confidentiality protection, nonsampling error, and definitions, see http://www.census.gov/prod/cen2010/pi94-171.pdf

NOTE: Change to the California, Connecticut, Mississippi, New Hampshire, Virginia, and Washington P. L. 94-171 Summary Files as delivered.

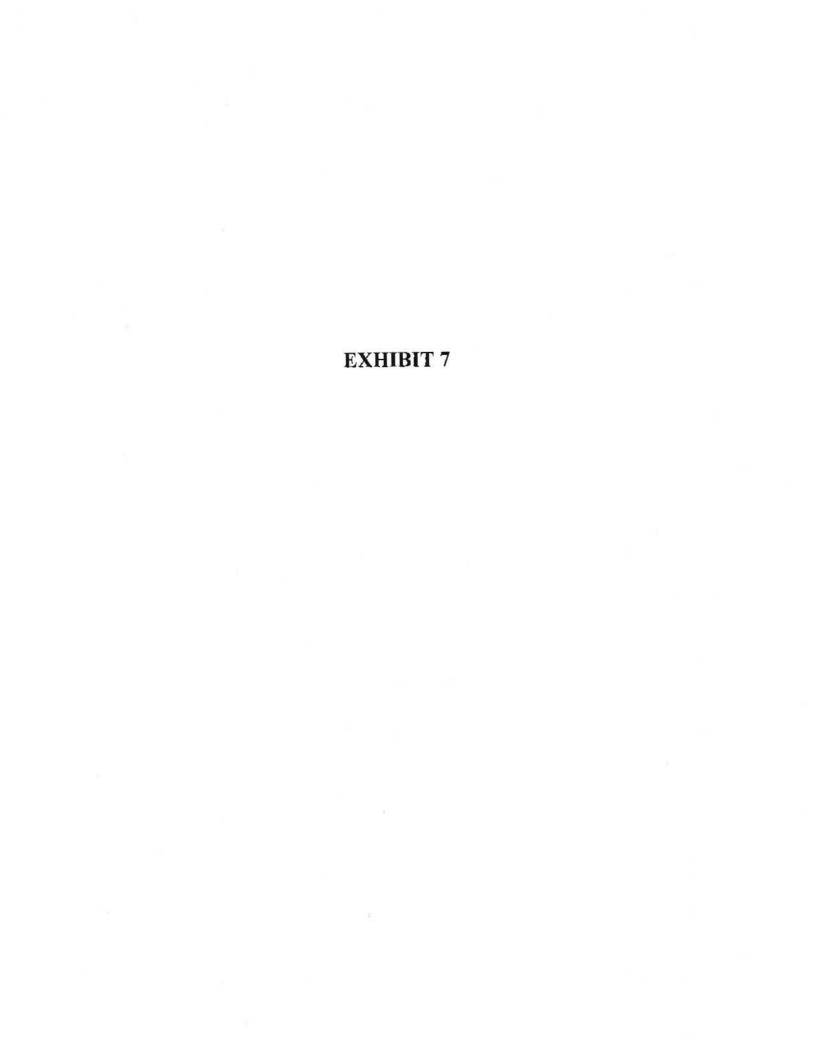
	Chattahoochee city, Florida
Total:	1,155
Occupied	940
Vacant	215

Source: U.S. Census Bureau, 2010 Census.

Source: U.S. Census Bureau | American FactFinder



	Α	В	С	D	E
1	Community	State	Total DBS Subscribers	2010 Census Data Occupied Housing Units	% of DBS Penetration In Franchise Area Column C / Column D
2	Chattahoochee	FL	283	940	30.11%



### DECLARATION OF THOMAS M. WILSON

- I, Thomas M. Wilson, declare, under penalty of perjury that:
- 1. I am a Partner with the law firm of Sabin Bermant & Gould LLP. In this capacity, I am responsible for overseeing effective competition filings for Bright House Networks, LLC ("Bright House Networks").
- 2. I have read the foregoing Petition for Special Relief ("Petition") and am familiar with the contents thereof and the matters referred to therein.
- 3. I have reviewed Bright House Networks' cable subscriber number for the Franchise Area at issue in this Petition, as well as the DBS subscriber numbers provided by SBCA as described in the Petition. Bright House Networks is the largest multichannel video program provider in the Chattahoochee Franchise Area.
- 4. The facts contained within the Petition are true and correct to the best of my knowledge, information and belief.

Date: August 21. 2013

Thomas M. Wilson

### CERTIFICATE OF SERVICE

I, Deborah D. Williams, do hereby certify on this 27<sup>th</sup> day of August 2013, that a true and correct copy of the foregoing "Petition for Special Relief" has been sent via U.S. mail, postage prepaid to the following:

Marlene H. Dortch, Secretary Federal Communications Commission Office of the Secretary 445 12th Street, SW Washington, DC 20554 William Lake, Chief Media Bureau Federal Communications Commission Office of the Secretary 445 12th Street, SW Washington, DC 20554

City of Chattahoochee P.O. Box 188 Chattahoochee, FL 32324

Deborah D. Williams